

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

KENNETH TONEY, :
 :
Plaintiff, :
 :
vs. : CIVIL ACTION 07-0024-CG-C
 :
OFFICER BARBERS, :
 :
Defendant. :

ORDER

Plaintiff has filed two Motions for Appointment of Counsel (Docs. 9, 12). Plaintiff's requests for appointed counsel are DENIED.

In a case such as this, the Court may exercise its discretion by requesting the assistance of counsel under 28 U.S.C. §1915(e). Mallard v. U. S. Dist. Court for the Southern Dist. of Iowa, 490 U.S. 296, 109 S.Ct. 1814, 104 L.Ed.2d 319 (1989). Such requests are not mandatory except in "exceptional circumstances" where the complexity of the case or the competence of Plaintiff makes pro se prosecution of the claim fundamentally unfair. Steele v. Shah, 87 F.3d 1266, 1271 (11th Cir. 1996); Kilgo v. Ricks, 983 F.2d 189, 193 (11th Cir. 1993) ("key is whether the pro se litigant needs help in presenting the essential merits of his or her position to the court"); Poole v. Lambert, 819 F.2d 1025 (11th Cir. 1987); Wahl v. McIver, 773 F.2d 1169, 1174 (11th Cir. 1985).

A review of the file in this cause reveals no such circumstances. Plaintiff has demonstrated his ability to communicate and present his case to this Court. Upon consideration of the standard set forth in those cases cited herein, the Magistrate Judge denies discretionary appointment.

Plaintiff's Motion for Identification of defendant's counsel (Doc. 6) is DENIED as moot.

DONE this 11th day of April, 2007.

s/WILLIAM E. CASSADY
UNITED STATES MAGISTRATE JUDGE